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BOOK REVIEWS

THE LAW OF WILLS AND THE ADMINISTRATION OF ESTATES, by William P. Borland, of the Kansas City (Mo.) Bar. (Kansas City: Vernon Law Book Company, 1915, pp. xv, 723.)

The author, in a preface not characterized by excessive modesty, tells us that the present volume is a revision and enlargement of a previous work which "proved a very useful book both for students and practitioners." The present volume, according to the preface, includes "*all* of the leading cases in this country and in England;" "contains a concise statement of *all* the principles in language supported by authority;" "contains also an exposition of the reason and relative bearing of the rules;" "will be found of especial value to the western lawyer and student;" and "it is intended to make this the best one volume work on the subject."

Assuredly accuracy is one of the cardinal qualities possessed by every good law book. The lack of accuracy is perhaps the most striking quality of Mr. Borland's work. In attempting to cover a broad field in a single volume, the author has fallen into bald statements, hasty generalizations and sweeping conclusions which cannot stand the test of searching analysis. The treatment of many of the most important topics in the law of wills is inadequate and misleading. Parts of the book, however, are well done, and the style is in the main simple and clear.

Lack of space permits only a few references to specific parts of the book. The treatment of the important subject of "Incorporation by Reference" (§ 16) is very misleading. Of the five essential requisites for the application of this doctrine (see Page on Wills, § 162), the author mentions only two; so that a lawyer seeking to incorporate a document into a will might scrupulously follow the author's directions to the letter and yet might signally fail in his endeavor. Under "Dependent Relative Revocation" (§ 29), the general principle is never stated but the author contents himself merely with a discussion of one narrow phase of the subject. Again, in the discussion of the effect upon a first will of the revocation of a second will that revoked the first will, no mention whatsoever is made of the important factor of whether or not the second will contains an express revocation clause. Nor does the author in that connection indicate the great difference of opinion among the American courts and the varying rules that the courts have evolved. As to aliens, the author confuses the alien's *voidable* title as to realty and states that under the common law it was "inconsistent to permit the alien to devise such property." (See 1 Jarman on Wills 44; Page on Wills, § 150.) Under Mistake and Fraud (§ 82-93), the discussion is incomplete and misleading as the author fails to make the clean-cut distinction between Fraud or Mistake in the Execution (or Factum) and Fraud or Mistake in the Inducement. In complicated practical cases, the treatment of Marshalling Assets to Pay Debts and Legacies (§§ 207, 218) would prove an utterly insufficient guide. In many important instances when an examination of

the cases discloses a sharp difference of opinion among the courts, the author states merely one side of the question with no reference whatsoever to any inconsistent holding or any cases opposed to the view stated. Examples of this fault are found on p. 61 (whether witnesses may sign before testator if the acts are practically contemporaneous), p. 34 (whether husband can by a *donatio mortis causa* deprive the wife of her distributive share in his personalty), p. 105 (effect of modern emancipation statutes on the common law doctrine of the revocation of a woman's will by her marriage). The index (now so important a part of the modern law book) falls far short of modern standards.

A. M. D.

A TREATISE ON THE LAW OF INCOME TAXATION UNDER FEDERAL AND STATE LAWS, by Henry Campbell Black. (Kansas City: Vernon Law Book Company, Second Edition, 1915, pp. xxxvii, 865.)

Every important, modern Federal Statute (such as the Bankruptcy Act, Sherman Act, Interstate Commerce Act, and Judicial Code) has been followed by a flood of more or less ambitious books dealing with the statute. Most of these books have had only timeliness as their redeeming virtue and excuse for existence. The Federal Income Tax Law, which to a greater extent than any of the statutes mentioned touches the individual citizen, has been no exception to this rule. Mr. Black's treatise, however, is of real merit and forms a notable contribution to the law on this complex subject. In thoroughness, accuracy and clearness, the book ranks with the other well-known legal treatises of which Mr. Black is the author.

Students of the Federal Act will agree with the statement in Mr. Black's preface that the act is "not only singularly infelicitous in its language but singularly confused in its arrangement." To obviate this difficulty, Mr. Black has (while preserving the exact text of the act) broken the act up into seventy consecutively numbered sections, each introduced by a black-letter headline descriptive of its contents. Both for reference and for clearness the device is admirable. Next follow the Treasury Regulations and Rulings (Chapter 2) and the Internal Revenue Regulations (Chapter 3) which are invaluable in any study of the obscurer parts of the act. The nature of income taxes, the constitutional aspects of income tax laws and the construction of such laws are next discussed, after which the author takes up in detail the more important parts of the Federal Act. The chapter on "Collection at the Source" (a subject of unusual difficulty and the object of much of the criticism levelled at the act) is unusually valuable. In the appendix are given the Federal Civil War Income Tax Acts and the Income Tax Statutes of Wisconsin, South Carolina, North Carolina, Oklahoma, Virginia and Hawaii, together with a table of forms prescribed by the Commissioner of Internal Revenue. Though §§ 194 and 195 treat of the history of income tax and the laws now in force, it is to be regretted that Mr. Black did not lay greater stress upon the historical aspects of the subject.

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